

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE: § Case No. 17-33190
ROSA M. VASQUEZ, § Chapter 13
Debtor §

EMERGENCY MOTION FOR LEAVE TO FILE AMENDED PROOF OF CLAIM

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE.

EMERGENCY RELIEF IS REQUESTED DUE TO AN EVIDENTIARY HEARING SET FOR MONDAY, JUNE 11, 2018, AT 9:30 A.M.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Nationstar Mortgage LLC as mortgage servicer for U.S. Bank National Association, not in its individual capacity but solely as Trustee NRZ Pass-Through Trust X (hereinafter "Nationstar") respectfully files this motion for the Court to authorize Nationstar to amend its proof of claim pursuant to Bankruptcy Rule 7015 and Civil Rule 15(a)(2).

1. **Cause for Emergency Consideration.** A hearing on Debtor's Objection to Claim No 4 (Docket No. 67) is set for June 11, 2018. Nationstar's Amended Proof of Claim clarifies and implements Nationstar's response and position on Debtor's objection to claim.

2. **Original Proof of Claim.** Nationstar timely filed its mortgage proof of claim on September 25, 2017 (Claim No. 4) in the total secured amount of \$125,638.70, including pre-petition arrearage of \$33,597.79. The pre-petition arrearage is comprised of:

Principal & interest due:	\$20,974.92
Prepetition fees due:	\$1,810.00
Escrow deficiency for funds advanced:	\$8,971.81
Projected escrow shortage:	\$2,589.52
Less funds on hand:	(\$748.46)
Total prepetition arrearage:	\$33,597.79

3. The proof of claim was signed by an attorney at Buckley Madole, P.C. as “Authorized Agent for Nationstar Mortgage LLC.”

4. The proof of claim was filed with an addendum for “additional claim itemization” for fees, expenses, and charges which was blank. (Claim No. 4-1, p.5)

5. On April 10, 2018, Debtor filed an Objection to Claim No 4 (Docket No. 67). Nationstar filed a response to Debtor’s Objection on May 25, 2018 (Docket No. 73). A preliminary hearing was held on May 31, 2018, and continued to June 11, 2018.

6. **Amended Proof of Claim June 6, 2018.** On June 1, 2018, Nationstar substituted in the law firm of ShapiroSchwartz, LLP, to represent it as to the proof of claim and objection to claim.

7. In consideration of Bankruptcy Rule 3001(c)(2)(D), Nationstar has determined to:

- (i) Waive and credit to Debtor’s loan account all pre-petition fees, expenses and charges totaling \$1,810.00 because they were not itemized as required by Bankruptcy Rule 3001(c)(2)(A); and
- (ii) Pay Debtor’s attorney’s fees in objecting to the proof of claim as itemized and provided to the undersigned counsel on June 1, 2018.

8. To effect this waiver and credit to Debtor's loan account, and to substitute out attorney Andrew Kussmaul and substitute in an employee of Nationstar as the person attesting to the claim, Nationstar has filed an amended proof of claim contemporaneously with this motion. Therefore, Nationstar requests leave from this Court to amend its proof of claim filed September 25, 2017 (Claim No. 4) with its amended proof of claim filed June 6, 2018 contemporaneously with this motion.

WHEREFORE PREMISES CONSIDERED Nationstar Mortgage LLC respectfully prays that this Court grant Nationstar leave to file its amended proof of claim, and grant Nationstar such other relief, in equity or at law, to which it shows itself justly entitled.

Respectfully submitted,

/s/ H. Gray Burks, IV
H. Gray Burks, IV
State Bar No. 03418320
Shapiro Schwarz LLP
5450 Northwest Central, Suite 307
Houston, Texas 77092
Telephone (713)462-2565
Facsimile (847)879-4856
Attorneys for Nationstar Mortgage LLC

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion for Leave has been served on the parties listed below, at the addresses indicated via electronic delivery or by deposit in the United States Mail, first-class postage pre-paid on June 6, 2018.

ECF/CM

Veronica Ann Polnick
The Polnick Law Firm, PLLC
2311 Canal Street, Suite 326
Houston, Texas 77003
Attorney for Debtor

U.S. Mail

Rosa M. Vasquez
8515 Country Wind Ct.
Houston, Texas 77040
Debtor

U.S. Mail

Rosa M. Vasquez
8215 Country Wind Ct.
Houston, Texas 77040
Debtor

ECF/CM

William E. Heitkamp
Office of Chapter 13 Trustee
9821 Katy Freeway, Suite 590
Houston, Texas 77024
Chapter 13 Trustee

ECF/CM

United States Trustee
515 Rusk Ave., Suite 3516
Houston, Texas 77002
United States Trustee

/s/ H. Gray Burks, IV
H. Gray Burks, IV